



## **BURR RIDGE ZONING ORDINANCE**

### **SECTION XII NON-CONFORMING BUILDINGS, STRUCTURES AND USES**

#### **A. STATEMENT OF PURPOSE**

The purpose of this Section is to provide for the regulation of legal nonconforming uses, buildings, and structures, and to specify those circumstances and conditions under which those nonconforming buildings, structures, and uses shall be gradually eliminated upon reaching the end of their respective normal useful life or upon their discontinuance or partial or total destruction, and to specify those circumstances and conditions under which those nonconforming buildings, structures and uses shall be permitted to continue until such time as they are eliminated in accordance with the authority granted by Illinois law.

Any uses, buildings, or structures which did not conform with all applicable codes of the public entity having jurisdiction (i.e. County or Village) at the time they were built or the use of the land established, are considered illegal nonconforming uses and must be abated unless otherwise allowed by special use approval as per Section XII.F of this Ordinance.

The regulations contained in this Section purposefully distinguish between different types of nonconformances. There are two general classes of nonconformance of concern to the Village: (1) nonconformance as to use, and (2) nonconformance as to bulk.

##### **1. Nonconformance as to Use**

A use not listed as a permitted use, or otherwise made allowable by special or conditional use permit, within the zoning district in which it is located is considered nonconforming as to use. Nonconforming uses can exist in buildings or structures designed or intended for such nonconforming use. Alternatively, they can exist in buildings or structures not designed for such uses but rather in buildings or structures intended for uses permitted in the applicable zoning district. It is the intent of these provisions to distinguish between those two types of use nonconformance.

##### **2. Nonconformance as to Bulk**

A building or structure conforming in terms of use but not meeting the standards established for bulk and yard requirements in the zoning district in which they are located represent nonconformance as to bulk. This can occur in one of two ways: it either complied with the bulk regulations of the Village when constructed but those regulations have been subsequently amended in a manner causing the nonconformance, or it was located in an unincorporated area and complied with



all county bulk regulations and since then was annexed to the Village which had different bulk regulations causing the nonconformance. It is the intent of these provisions to keep this type of nonconformance from further divergence from the bulk regulations established in the zoning district in which it is located and to eventually eliminate them.

**B. AUTHORITY TO CONTINUE NONCONFORMING BUILDINGS, STRUCTURES, AND USES**

Any nonconforming building, structure, or use which existed lawfully at the time of the adoption of this Ordinance, and any such building, structure, or use which shall become nonconforming upon the adoption of this Ordinance, or any subsequent amendments thereto, or which lawfully existed in an unincorporated area and became nonconforming upon annexation to the Village may be continued subject to the regulations which follow.

**C. RESTRICTIONS ON NONCONFORMING BUILDINGS, STRUCTURES, AND USES**

Any lawfully existing building or structure which does not conform to the regulations of the district in which it is located may be continued, subject to the provision of this Section XII.C.

**1. Repairs and Alterations**

- a. **Building or Structure Designed or Intended for a Nonconforming Use.** Repairs and alterations may be made to a nonconforming building or structure designed or intended for a nonconforming use, provided that no structural alterations which increase the bulk of the building or structure shall be made in or to a building or structure, except those required by law or except to make the building or structure, and/or the use thereof, conform to the regulations of the district in which it is located. For the purpose of this Section, repairs shall include the replacement of storage tanks where the safety of operation of the installation requires such replacement, and other replacements of, or substitutions for, machinery or equipment not involving structural alterations to the building or structure, except as herein above provided.
- b. **Building or Structure Designed or Intended and Used for a Permitted Use.** Repairs, alterations and structural changes may be made to a building or structure, all or substantially all of which is designed, intended and actually being used for a use permitted in the district in which is located but which is nonconforming as to bulk, provided, however, that such repairs, alterations or structural changes conform to the regulations of the district in which such building or structure is located and further provided they do not increase the degree of nonconformance with the bulk regulations of said district.



- c. **Building or Structure Designed for But Not Used for a Permitted Use.** Repairs, alterations, and structural changes may be made to a nonconforming (as to bulk) building or structure, all or substantially all of which is designed or intended for a use permitted in the district in which it is located even though the actual use of such building or structure is not permitted in such district, provided said repairs, alterations, or structural changes conform to the regulations of the district in which said building or structure is located.

**2. Additions and Enlargements**

A nonconforming building or structure which is nonconforming as to bulk, and is designed or intended for a permitted use, shall not be added to or enlarged in any manner unless such additions or enlargements thereto are made to conform to all of the yard regulations of the district in which it is located. A nonconforming building or structure which is nonconforming as to actual use shall not be added to or enlarged in any manner.

**3. Relocation of Building or Structure**

No building or structure shall be moved in whole or in part to any other location on the same or any other lot unless every portion of such building or structure which is moved, and the use thereof, is made to conform to all of the regulations of the district in which it is to be located.

**4. Restoration of Damaged Building or Structure Designed or Intended for Nonconforming Use**

- a. A nonconforming building or structure which is destroyed shall not be rebuilt unless the new building or structure conforms to all of the regulations (including permitted uses thereof) of the district in which it is located; provided, however, if such building or structure was nonconforming only as to bulk regulations, it may be rebuilt in the same location provided that the degree of nonconformance is not increased and further provided that it is determined by Village Board action that there exists no reasonable alternative location which would eliminate or substantially reduce the degree of nonconformance.
- b. A nonconforming building or structure, except those identified by Village Board action as being of historic significance, which is damaged by fire or other casualty or act of God to the extent that the cost of restoration to the condition it was in before the occurrence shall exceed 50 per cent of what it would cost to rebuild the entire building or structure shall not be restored unless said building or structure, and the use thereof, shall conform to all of the regulations of the district in which it is located.



- c. In the event such damage is less than 50 percent of the cost of rebuilding the entire building or structure, no repairs or reconstruction shall be made unless such restoration is started within sixty (60) days from the date of partial destruction and completion accomplished within one year from the date of partial damage.

If the restoration is not started within sixty (60) days of official notice by the Community Development Director and diligently prosecuted to completion, the building or structure shall be removed and the area cleared. However, any building or structure designated by the Village Board as being historically significant shall be allowed one year to start restoration.

**5. Discontinuance of a Nonconforming Use**

If the nonconforming use of a building, structure, or land is discontinued for a continuous period of six (6) months, it shall not be renewed, and any subsequent use of the building, structure, or land shall conform to the use regulations of the district in which such building, structure, or land is located.

**6. Expansion of Nonconforming Use**

- a. **Building or Structure Designed or Intended for a nonconforming Use.**  
The nonconforming use of part of a building or structure, all of which is designed or intended for a use not permitted in the district in which it is located, shall not be expanded or extended throughout the building or structure in which said use is presently located, nor changed to any other nonconforming use.
- b. **Building or Structure Designed or Intended for a Permitted Use.** The nonconforming use of part of a building or structure, all or substantially all of which building or structure is designed or intended for a use permitted in the district in which it is located, shall not be expanded or extend into any other portion of such building or structure nor changed to any other nonconforming use.
- c. **Land.** The nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be expanded or extended beyond the area it occupies.

**7. Change of Nonconforming Use**

- a. **Building or Structure Designed or Intended for a Nonconforming Use.**  
The nonconforming use of part or all of a building or structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, may not be changed to another



nonconforming use.

- b. **Building or Structure Designed or Intended for a Permitted Use.** No nonconforming use shall be changed to another nonconforming use when such nonconforming use is located in a building or structure, all or substantially all of which building or structure is designed or intended for a permitted use.
- c. **Land.** The nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be changed to any other use, except to a use permitted in the district in which the land is located.

**D. ELIMINATION OF NONCONFORMING BUILDINGS AND STRUCTURES**

In all Residence Districts, any building or structure, all or substantially all of which is designed or intended for a use allowed only in a non-residential district, and any building or structure which is located in a non-residential district and which is designed or intended for a use allowed only in another non-residential (or residential) district shall be removed or shall be altered, remodeled or converted for a permitted use within six (6) months after the amortization period of such building or structure, which is hereby established as set forth below:

**1. Assessed Valuation\* More than \$50,000**

In accordance with the types of construction classification set forth in the Building Code of the Village of Burr Ridge, Illinois.

- a. Fireproof Construction and Non-Combustible Construction -- 40 years from date of original building permit or ten (10) years following annexation into the Village of the property on which the nonconforming building or structure is located or July 1, 2001 -- whichever last occurs.
- b. Exterior Masonry Wall Construction -- 30 years from date of original building permit or ten (10) years following annexation into the Village of the property on which the nonconforming building or structure is located or July 1, 1997 -- whichever last occurs.

**2. Assessed Valuation\* Not Less than \$10,000 But Not More than \$50,000**

Eight years from date of original building permit or July 1, 1995 -- whichever last occurs.



**3. Assessed Valuation\* Less than \$10,000**

Four years from date of original building permit or July 1, 1995 -- whichever last occurs.

\*Note: Assessed valuations referred to in (1), (2), and (3) above are the unequalized assessed valuations as determined by DuPage or Cook County, Illinois, as most recently determined.

**E. ELIMINATION OF NONCONFORMING USES**

This Section is intended to gradually eliminate inappropriate uses of buildings or structures designed or intended for uses allowed within the district in which it is located.

1. In all Business and Transitional Districts any use of a building or structure, all or substantially all of which is designed or intended for a use permitted only in a Business or Transitional District, but is being used for a use permitted only in a Residential, Office or Manufacturing District, shall be terminated by July 1, 2006.
2. In all Manufacturing Districts any use of a building or structure, all or substantially all of which is designed or intended for a use permitted only in a Manufacturing District but is being used for a use permitted only in a Residential, Office, Business or Transitional District, shall be terminated by July 1, 2006.
3. The nonconforming use of land shall be discontinued and cease by January 1, 1997 in each of the following cases:
  - a. Where no buildings or structures are employed in connection with such use.
  - b. When the only buildings or structures or other physical improvements are accessory or incidental to such use.
4. A nonconforming use of land which is accessory to the nonconforming use of a building or structure shall be discontinued on the same date the nonconforming use of the building or structure is discontinued.
5. Improvements underground or substantially at ground level, which comprise all or substantially all of the improvements employed in a nonconforming use of land, which have a current unequalized assessed value in excess of \$5,000 shall be deemed a nonconforming structure and shall be subject to the applicable provisions of this Section.



F. **SPECIAL USE PROVISION FOR ELIMINATION OF NON-CONFORMING USES**

1. **Legal and Illegal Non-conforming Use Distinguished**

For the purposes of this section only, any non-conforming use in existence on the effective date of this Ordinance or upon annexation to the Village of the property on which the use exists subsequent to the effective date of this Ordinance, is a legal non-conforming use only if, in the opinion of the Community Development Director, the use was permitted at the time the use came into existence under the then applicable Village or County zoning ordinance use restrictions. All other non-conforming uses in existence on the effective date of this ordinance are hereby deemed illegal.

The Community Development Director shall make the determination of whether a non-conforming use in existence at the time of the effective date of this Ordinance is legal or illegal, as defined herein, upon review of any evidence pertaining to prior use and prior zoning ordinance use restrictions which is submitted by the owner of the property (or his or her designee). The sole remedy to appeal such a decision is to seek a special use permit as provided for in Section XII.F.2 of this Ordinance.

2. **Illegal Non-Conformance with Use Standards Adjacent to Residential Uses.**

Any use, permitted or non-conforming, shall become subject to and be brought into compliance with the performance standards of this Ordinance upon annexation into the Village of Burr Ridge. It is the purpose and intent of these provisions of this Ordinance, to bring those uses which are non-conforming under the performance standards of this Ordinance, for manufacturing and industrial-type uses in any district involving manufacturing, fabricating, assembly, disassembly, repairing, storing, cleaning, servicing, warehousing, shipping, delivery, loading and/or unloading of goods, or testing of materials, goods or products, which are adjacent to or within 500 feet of any residential use(s), into immediate compliance with such performance standards. A grace period of up to nine (9) months to achieve compliance with a particular performance standard(s) may be allowed upon a showing by the property owner that compliance with a particular use/performance standard will require substantial expenditures, or additional time, to achieve the retrofitting, modifications or adjustments to vehicles, equipment, machinery, plantings, or construction required to comply with the particular use/performance standard(s).

A property owner seeking additional time to comply with the performance standards of this Ordinance shall make a showing of such need to the Community Development Director, who is then authorized to determine whether the property owner has demonstrated the need for the grace period set forth herein. The property owner may pursue an appeal of such determination as provided under



Section XIII.I of this Ordinance. (Amended by Ordinance A-834-5-10)

**3. Special Use Option**

The owner or occupier of an illegal non-conforming use in existence on the effective date of this Ordinance may apply for a special use permit in accordance with Section XIII of this Ordinance. Upon receipt of such an application, the Board of Trustees, upon recommendation from the Plan Commission, may grant special use approval, subject to such conditions as the Board of Trustees finds necessary for compliance with the special use standards set forth in Section XIII of this Ordinance.